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Remarks and Instructions

The complete manual, revision packages, and individual chapters can be accessed at www.wsdot.wa.gov/publications/manuals/m26-01.htm.

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Please contact Danny Johnson at 360-705-7317 or johnsoda@wsdot.wa.gov with comments, questions, or suggestions for improvement to the manual.

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| Approved By Dianna Nausley | Signature |
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**Washington State
Department of Transportation**

Right of Way Manual

M 26-01.10

March 2013

Project Development Division

Real Estate Services

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- 4-1 Policy
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- 4-4 Special Appraisal Situations
- 4-5 Responsibilities

This chapter outlines typical appraisal tasks and responsibilities. The Washington State Department of Transportation (WSDOT) Appraisal Guide, Appendix 4-1, provides detailed technical requirements for appraisals.

4-1 Policy

The Headquarters Real Estate Services Program Administrator (HQ RESPA) establishes WSDOT appraisal policy. This policy assures compliance with state and federal laws and regulations governing real property acquisition under eminent domain.

4-2 Project Funding Estimates

A Project Funding Estimate (PFE) is a detailed parcel-by-parcel estimate of total expected right of way acquisition costs. Ideally, it is completed by an appraiser, an appraisal reviewer, and a relocation expert. The PFE is entered into the Integrated Real Estate Information System (IRIS) which produces a summary report. Through IRIS, the region can update the PFE as needed. The PFE is used to obtain authorization and funding for the project.

4-2.1 Rules

- A. A PFE is prepared for every project in which right of way will be acquired.
- B. As a minimum, the PFE contains the following information:
 - 1. A parcel-by-parcel list of right of way costs.
 - 2. A notation on every parcel with a listing on the HazMat Database. This information is to be included in the appraisal and the Determination of Value.
 - 3. A total project right of way cost summary.
 - 4. A project data package including sales, sales map, neighborhood and project description, scope of sales search and, if applicable, damage studies, cost-to-cure documentation, Assumptions and Limiting Conditions, and Acquisition Appraisal Salient Information. The PFE Parcel Work Sheet is included in the data package.
- C. The PFE is transmitted by a cover memorandum containing a brief explanation of the material and a request for funding action.

- D. Subsequent to funding action (assignment of a right of way number), any supplemental requests for significant fund changes or additions/deletions of parcels are submitted as separate PFEs per Section 4-2.1.A.
- E. At a minimum, four complete copies, including data package, shall be distributed as follows:
 - RESM, Region (1)
 - Appraisal, Region (1)
 - Negotiation, Region (1)
 - Headquarters Appraisal (1)
- F. One (1) copy each of the PFE without the data package shall be transmitted to Headquarters Relocation Assistance and Region Program Management.
- G. Exceptions to the PFE procedures may be made with the written concurrence of the Section Manager, Appraisal and Appraisal Review Program.

4-2.2 Procedures

The agent assigned to do the PFE completes the estimate as follows:

- A. Inspects the project and becomes familiar with the engineering features of the plan.
- B. Views individual parcels to determine the effects of acquisition.
- C. Prepares a neighborhood and project description which defines existing uses, zoning, trends, transportation and utilities, economic influences, a synopsis of the project and its effect on parcels, and any changes in the aforementioned likely to be caused by the project.
- D. Gathers sufficient comparable land sales, listings, and/or assessment information for the various types of parcels and remainders within the project.
- E. Prepares project vicinity map.
- F. Prepares PFE Parcel Work Sheet (RES-215) for each parcel on the project.
- G. Includes any applicable damage studies.
- H. Includes cost-to-cure documentation for estimates and/or bids.

4-3 Appraisals

This section outlines typical appraisal administration and responsibilities.

4-3.1 Appraisals, Authorization

WSDOT may authorize acquisition appraisals after the following:

A. Normal Approval

1. The corridor hearing has been held.

2. The final environmental approval has been obtained.
3. The right of way plan showing the parcels to be appraised has been submitted.

B. **Special Approval** – Early appraisals may be completed on a parcel-by-parcel basis if “Hardship Acquisition” or “Protective Buying” has been authorized.

Appraisals may be completed prior to final plan and/or environmental approval if the circumstances warrant this action. Discretion is advised as this may have an impact on federal funding, if any.

4-3.2 Number of Appraisals

A. Acquisition Appraisals

1. Each parcel to be acquired by negotiation must have at least one appraisal except as provided under Section 4-3.3. Additional appraisals may be required due to the complexity of the appraisal problem. It is the responsibility of the Review Appraiser to determine if more than one appraisal will be required. This should be done early in the acquisition process, preferably during the PFE.
2. Each parcel to be acquired by donation need not have an appraisal if the donor waives it.
3. Regardless of estimated just compensation amount, each parcel submitted to Headquarters for condemnation will be appraised. A Determination of Value (DV) prepared by a review appraiser must be transmitted with the parcel.

B. Surplus Property Appraisals

1. All surplus real property and/or real property rights with an estimated value in excess of \$10,000 must have at least one appraisal prior to disposal by sale or trade. The Review Appraiser may require additional appraisals due to the complexity of the appraisal problem.
2. All surplus real property and/or real property rights with an estimated value of \$10,000 or less can be reported as such using a memorandum form. Requirements are found in Chapter 11.
3. WSDOT-owned real property and/or real property rights to be rented or leased may have fair market rent supported by memorandum with supporting data attached as necessary. It is the responsibility of the Section Manager, Appraisal and Appraisal Review Program, or the Region Appraisal Supervisor to determine whether the appraisal problem complexity requires a formal appraisal in such instances.

4-3.3 Waiver of Appraisal

A. Rules

1. The department, at the discretion of the RESM, may elect to waive the requirement for an appraisal if the valuation problem is uncomplicated and the compensation estimate indicated on the PFE is \$25,000 or less, inclusive of cost-to-cure items.
2. Special care should be taken in the preparation of this form. Because no review is mandated, the preparer needs to assure that the compensation is fair and that all the calculations are correct.

B. Rules

1. Just Compensation must be less than \$25,000.
2. Definition of “Uncomplicated” is as follows:
 - No change of Highest and Best Use.
 - No Damages other than “Cost to Cure.”
 - Cost or Income approach to value not required to estimate value.

C. Procedures

1. An Administrative Offer Summary (AOS) (RES-216) is prepared using data from the project data file or other appraisals of comparable properties.
2. The AOS is submitted to the RESM or the Region Appraisal Supervisor for approval.
3. The RESM or Region Appraisal Supervisor signs the AOS authorizing a first offer to the property owner(s).
4. The original AOS is forwarded to the Section Manager, Appraisal and Appraisal Review Program. A copy is sent to the Region Negotiation Supervisor for preparation of the offer.

4-3.4 Appraisal Assignment

The Region assigns/contracts for appraisal and specialist reports. Staff appraiser assignments are made using the Staff Appraiser Assignment (RES-203). Fee appraisers and specialists are contracted using the personal services contract. For personal service contracting procedures and administration, see Chapter 1, Section 22.

- A. The assigned appraisal form must match the complexity of the appraisal problem.
- B. Appraisal assignment/contract data is entered into IRIS.

- C. Qualified state staff, when available, must be utilized before private consultants can be contracted.

4-3.5 Distribution of Appraisal Reports

- A. WSDOT may share the appraisal reports with the property owners.

When this occurs, the appraiser submits one original report, which is given to the Review Appraiser.

- B. After the report is reviewed and found acceptable, an original and three copies of the appraisal reports are submitted to the Senior Appraiser with a fourth copy retained by the appraiser. The Region Appraisal Supervisor:
 - 1. Stamps each appraisal with the date it was received in region.
 - 2. Updates IRIS as necessary.
 - 3. Distributes the reports as follows:
 - a. Original to the Section Manager, Appraisal and Appraisal Review Program, for inclusion in the Headquarters parcel file.
 - b. One copy to the region parcel file.
 - c. One copy to the review appraiser.
 - d. One copy for the negotiator.

4-4 Special Appraisal Situations

4-4.1 Plan Revisions

When a right of way plan revision occurs, a new appraisal and/or new DV may be required.

- A. If the parcel has not been acquired, the Appraisal Supervisor contacts the Review Appraiser to determine if a new or revised parcel appraisal is required.
 - 1. If a new or revised appraisal is not required, the Review Appraiser will write a new DV based on the new map and the previous appraisal. (See Chapter 5, Review.)
 - 2. If a new or revised appraisal is required by the Review Appraiser, the Appraisal Supervisor assigns and/or contracts accordingly.
- B. If a plan change requires the acquisition of additional rights from a parcel that the department has already completed an acquisition on, then a new parcel number, PFE, and appraisal are required.

4-4.2 Damage Claims

The Region Appraisal Supervisor assigns or contracts the appraisal of damage claims (e.g., inverse condemnations) upon authorization by the HQ RESPA.

4-4.3 Advertising Signs

- A. Tenant-owned signs (realty) in the acquisition are appraised as tenant-owned improvements. The appraisal shall report the following:
 - 1. The contribution value of the sign.
 - 2. The orderly liquidation (salvage) value of the sign.
 - 3. The cost to move the sign onto the remainder (if a partial taking).
- B. Fee-owner signs (realty) located in the acquisition are evaluated as fixtures. The appraisal shall report the contribution value of the sign and the cost to move the sign onto the remainder (if a partial taking).
- C. Signs that are located outside the right of way are appraised only as authorized by the HQ RESPA or the Section Manager, Appraisal and Appraisal Review Program.

4-4.4 Other Types of Appraisal Problems

- A. The following are examples of when the HQ RESPA should be consulted for direction:
 - 1. Railroad properties.
 - 2. Properties owned by a public agency.
 - 3. Aquatic lands or wetlands.
 - 4. City street rights of way.
- B. **Private Access Easement for Transfer** – When a R/W plan shows an “Access Easement for Transfer” across a private owner (A), the servient tenement, to serve another single private owner (B), the dominant tenement, we cannot condemn for the easement. We cannot condemn to provide private access to a third party because this situation is not a public use, as defined in RCW 8.04.070.
 - 1. The appraiser prepares a two-premise report for each property. The “before” description and valuation is the same for both premises. The “after” description and valuation is different.
 - a. For Owner A, the first premise in the “after” situation is without the easement. The second premise in the “after” is with the easement.
 - b. For Owner B, the first premise in the “after” situation is without the easement from Owner A. The second premise in the “after” is with the easement from Owner A.

- C. **Well and Septic System Agreements** – When a portion of a well, well radius, or septic system falls within the proposed R/W acquisition, it may be appropriate for the RESM to allow the use of an agreement to replace the private utility rather than obtain a cost to cure.

The appraiser who prepares the appraisal, should first determine the feasibility of the replacement. An investigation should be made for adequate areas, setback requirements, soil conditions, etc.

If the system is not feasible, then other avenues of solution must be taken.

If there are public or community utilities within the area, the cost of the hookup to that utility should be investigated as a possible alternative.

- D. **Asbestos** – When buildings to be totally or partially acquired are suspected to contain asbestos, the Region Appraisal Supervisor:

1. Requests that the region project engineer contract for asbestos sampling and testing of such buildings per these priorities:
 - a. **High Priority** – All buildings designed/constructed for human occupancy/use, except single-family dwellings. Asbestos sampling/testing reports on these buildings are provided to the parcel appraiser for consideration during the appraisal process (see Section 4-4.4.D.2).
 - b. **Low Priority** – All single-family residences. Asbestos sampling/testing reports on these need not be considered by the parcel appraiser during the appraisal process unless the typical market would do so.
2. Positive asbestos sampling/testing reports on high priority buildings require the services of a specialist (Industrial Hygienist) for an estimate of the cost of mitigation. The mitigation estimates needed are:
 - a. For affected buildings lying totally within the right of way or likely to be totally acquired, the costs needed are:
 - (1) Removal of the asbestos from the entire building.
 - (2) Encapsulation of the asbestos for the entire building.
 - b. For affected buildings lying partially within the right of way and which will likely be rehabilitated in place, the costs needed are:
 - (1) Removal of asbestos that will be disturbed during rehabilitation.
 - (2) Encapsulation of asbestos that will be disturbed during rehabilitation.
3. Positive asbestos sampling/testing reports on low priority buildings do not require mitigation cost estimates. However, such positive reports are to be provided to the Region Negotiation Section and Property Management Section prior to the occurrence of any of the following:

- a. Offering owner the option to retain the building for salvage.
 - b. Rental of the building to the owner, occupant, or any tenant after acquisition.
 - c. Any sale that includes ownership of the building.
 - d. Demolition of the building.
4. The Region Appraisal Supervisor assures that copies of all positive asbestos sampling/testing reports are available to the project engineer.
- E. **Toxic/Hazardous Waste Situations** – The Region Appraisal Supervisor consults the project environmental impact statement and/or the project design report for information. If toxic/hazardous waste is present in the project alignment, it should be tested and mitigation costs estimated prior to the PFE. The Region Appraisal Supervisor assures that any positive testing and mitigation cost estimates are forwarded to the parcel appraisers for consideration during the project funding and/or appraisal processes.
- 1. Lacking definite information on hazardous/toxic waste contamination from the project design report or the EIS, the appraiser is vigilant during field inspection of parcels or owner contacts for indications of possible contamination such as:
 - a. Evidence of spillage.
 - b. Odd odors or soil colors.
 - c. Evidence of burial.
 - d. Discolored, missing, or dead vegetation.
 - e. Dead animals or birds.
 - f. Suspicious drums, tanks, or containers.
 - g. Any above or underground storage tanks.
 - 2. If the appraiser suspects the presence of hazardous/toxic waste on a parcel, the following actions are taken:
 - a. The appraiser reports suspicions in writing through the Region Appraisal Supervisor to the Region Environmental Unit.
 - b. The Section Manager, Appraisal and Appraisal Review Program, is consulted on how to proceed with the appraisal.
 - c. If waste is found, the cleanup costs reported by the environmental unit are considered by the appraiser during the appraisal process.

- F. **Mobile Homes** – As described in Chapter 49, Code of Federal Regulations, Mobile Homes may be determined to be either real property or personal property. The appraisal procedures will be different depending on this determination.

It is recognized that personal services contracting expertise lies with the Region Appraisal Supervisor. The Region Appraisal Supervisor will contract with a mobile home specialist to explore whether each mobile home is real estate or personal property. As part of the contract, the mobile home specialist will also determine the salvage value of the mobile home (if real estate) and the depreciated value and cost to move the mobile home (if personal property), as described below.

The final decision as to whether the mobile home is real estate or personal property will be made by the Region Real Estate Services Manager, or designee, and will be based on the following criteria:

Real Property – Not licensed by Department of Licensing, Motor Vehicle division.

Personal Property – Title is licensed by Department of Licensing, Motor Vehicle division.

1. If the mobile home is determined to be real estate, then it is appraised at its contribution value as real estate in the appraisal report, and a salvage value will be provided. The mobile home specialist will provide the salvage value as part of the contract referenced above.
2. If the mobile home is determined to be personal property, then these procedures are followed:
 - a. The Region Appraisal Supervisor will set up a contract with a mobile home specialist to provide the following information:
 - (1) Cost to move, including code modifications and necessary upgrades.
 - (2) Current depreciated value.
 - b. The appraiser includes these costs in the appraisal report, but does not add them to the value of the real property:
 - (1) A statement will be inserted in the appraisal acknowledging that the mobile home is personal property and what the conclusions of the specialist report are.
 - (2) A copy of the specialist's report will be attached to the appraisal.

- c. The Review Appraiser includes a statement in the Determination of Value.

- (1) The statement will acknowledge that the mobile home is personal property and will state the conclusions of the specialist report. This information is not added to the value of the real property.

3. If the mobile home is determined to be personal property, but cannot be moved as described in Chapter 12, Relocation Assistance, then the RESM may authorize the purchase of the mobile home.
4. When acquired, the clearing of the title to the mobile home will be handled through escrow as described in Chapter 6, Acquisition.

4-5 Responsibilities

4-5.1 Region Appraisal Supervisor

The Region Appraisal Supervisor's responsibilities include the following:

- A. Obtain estimates, specialist's reports, and appraisals in advance of negotiations by making staff assignments or contracting private consultants.
- B. Provide the appraiser with: identification of real property and fixtures to be appraised; engineering data; specialist reports; information from the environmental impact statement (EIS); and/or project design report regarding hazardous/toxic waste and/or asbestos.
- C. Update projects, parcels, Project Funding Estimates, appraisal assignments, and appraisal completions in the IRIS computer system.
- D. Supervise appraisal staff.
- E. Negotiate contracts with fee appraisers and specialists and oversee their completion.
- F. Act as liaison between Review Appraiser and appraiser regarding review and/or rejection of appraisal reports.
- G. Act as liaison between the Attorney General's Office and staff appraisers.

4-5.2 Appraiser

The appraiser's responsibilities include the following:

- A. Appraising items of property that have been identified as real estate fixtures. The appraiser itemizes and considers the fixtures in the report. The appraiser identifies the ownership of real property improvements and personal property.

- B. Performing and reporting in conformance with:
 - 1. Either the Staff Appraiser Assignment Form (RES-203) or the personal services contract.
 - 2. The Certificate of Appraiser (RES-205).
 - 3. Instructions peculiar to the specific assignment.
- C. Providing acceptable written appraisals or estimates in accordance with the Appraisal Guide (Appendix 4-1).
- D. Providing appraisal revision and corrective action as requested by the Review Appraiser.
- E. Coordinating appraisal matters with legal staff at pretrial conferences.
- F. Appearing as an expert witness for WSDOT.
- G. May act as negotiator as well as appraiser on parcels with \$10,000 or less just compensation.

- (3) The owning agency's letter requesting functional replacement.
 - (4) Any other pertinent data.
6. The Headquarters RESM:
- a. Reviews the submittal from the Region RESM.
 - b. If federal funds are to participate, prepares and transmits a letter (to be signed by the Director for Environmental and Engineering Programs) to FHWA, Division Administrator, including:
 - (1) A request for FHWA concurrence in functional replacement.
 - (2) A request for FHWA authorization to proceed with the acquisition of a substitute site, the physical construction of minor site improvements, and the preparation of PS&E for major site improvements.
 - (3) Appropriate additional data received from region.
 - c. Upon verification from FHWA that functional replacement is in the best interest of the state, notifies the Regional Administrator. Such verification stems from the approval of the Director for Environmental and Engineering Programs when federal participation is not involved.
- Note:** When required, PS&E for major site improvements are prepared by the owner of the improvements being replaced and submitted for FHWA review and approval. Costs of PS&E preparation are normally reimbursable under functional replacement.
7. The Region RESM:
- a. Obtains execution by the appropriate officials of the owning agency of a formal agreement which sets forth:
 - (1) The rights, obligations, and duties of each party with regard to the facility being acquired and the acquisition of the replacement site specifying how the agencies name is to appear on acquisition.
 - (2) How the costs of the new facility are to be shared between the parties.
 - b. Proceeds with the acquisition of the substitute site, if appropriate, in the name of the party specified in the agreement.
 - c. Submits proposed PS&E for the functional replacement to the Headquarters RESM, if required.
 - d. Submits the agreement to the Headquarters RESM for execution.
8. The Headquarters RESM:
- a. Reviews the agreement and executes it for the state of Washington.

- b. If federal funds are to participate, submits the executed agreement to FHWA together with a letter requesting FHWA concurrence.
 - c. Notifies the Region RESM upon receipt of FHWA concurrence.
- 9. Upon completion of construction, the Region RESM:
 - a. Makes a joint final inspection of the replacement facility with the appropriate representatives of the owning agency.
 - b. Verifies that the conveyance from the agency to the state of the lands required for highway purposes has been accepted by the state.
 - c. If appropriate, submits voucher for any costs, e.g., relocation assistance, due to the agency pursuant to the agreement.
 - d. Obtains a statement from the appropriate officials of the owning agency that:
 - (1) The costs of the replacement facility have actually been incurred in accordance with the provisions of the executed agreement.
 - (2) A final inspection of the replacement facility has been made by both parties.
 - (3) The Department of Transportation is released from any further responsibilities.

6-8 Property and Acquisition Specialist's Actions Prior to Contact With the Owner

The PAS:

- A. Adds to the parcel file the Diary of Right of Way Activities – Acquisition Form.
- B. Reviews the title report(s). Checks the description to ensure conformity with right of way plans, determines the action to be taken with respect to each encumbrance, and obtains any supplemental title reports which may be necessary.
- C. Studies the appraisal report and the Review Appraiser's DV or AOS, taking special note if there are any tenant-owned improvements identified or improvements to be salvaged. **Note:** Salvage items should be identified during the appraisal inspections and any salvage values should be included in the appraisal report.
- D. Studies and investigates all details of the right of way plans, utility plans, drainage plans, channelization plans, as well as the profiles, cross sections, road approach schedules, and any other specialist's reports for complete familiarity and understanding.

- E. Reviews hearing transcript and EIS documents when available.
- F. Makes an on site inspection of the proposed acquisition. Notes evidence of any recent or pending public improvements (because these may cause an assessment). Notes physical access in the before and after situations. Notes any item such as improvements (fences, buildings, business signs, etc.), utilities (including drop lines continuing service to buildings), and evidence of septic drain fields that may have been missed in the title report and/or the appraisal.
- G. Coordinates with Relocation Assistance and Property Management as required. If improvements and/or land are to be rented back to grantors, follows procedures in Chapter 11.
- H. Prepares an appropriate “Offer Letter” in accordance with specific guidelines shown in form RES-350. Each letter is individually prepared on region letterhead.
 - 1. If the offer is administrative and the AOS is \$10,000 or less, the offer must state that an administrative offer is being made and an appraisal has not been completed.
 - 2. If the offer is administrative and the AOS is over \$10,000, the offer must state that an administrative offer is being made and that an appraisal has not been completed and an appraisal will be prepared if requested by the property owner.
- I. Whenever possible, prepares the instruments and vouchers necessary to complete the transaction (see Chapters 9 and 13).

6-9 Relocation Assistance Program

If an acquisition requires the moving of persons or personal property from the parcel, the PAS completes a Relocation Eligibility Report (RES-524). Upon obtaining proper signatures on the Relocation Eligibility Report, immediately forwards the original to the Relocation Assistance Section Manager.

If requested, the PAS can deliver a Relocation Assistance Program booklet and a General Notice of Relocation Rights (see Chapter 13 for example) to the property owner.

The PAS should only try to answer relocation questions posed by property owners based on their knowledge and experience of the Relocation Assistance Program. If the agent is unfamiliar with relocation, it is better to offer to have a relocation agent contact them.

If a decision is made by the department to withdraw an offer to purchase from a property owner and relocation is involved, the PAS should forward a copy of the letter withdrawing the offer to the relocation department.

More complete information and instructions are found in Chapter 12.

6-10 Property and Acquisition Specialist's Contact With the Owner

6-10.1 In-State Owner

The PAS:

- A. Contacts all parties having an ownership in property rights required (land, encumbrances, and improvements). Encourages a setting for meetings that will allow for proper display of maps and affords enough privacy to avoid unnecessary distractions.
- B. Verifies that the person(s) to whom the offer is to be made is the parcel owner, contract buyer, or an agent for same who is authorized to convey the subject parcel.
- C. Explains purpose of the project, what property rights will be required, and why.
- D. Presents the state's offer orally and in writing. The state's offer is normally presented during the first or second personal contact with the owner(s) or their representative. Reviews the offer letter with the owner to ensure complete understanding.
- E. Provide the Appraisal/AOS to the owner as follows:
 1. Deliver the bound copy of the appraisal (but *not* a copy of the DV).
 - a. If the DV is different from the appraised amount, the PAS will deliver the Reviewer's deviation memo to the property owner as justification for the difference.
 - b. Instruct the property owner to direct questions about the appraisal only to the PAS as the representative of WSDOT.
 2. The PAS will present a copy of the approved AOS including the appropriate market data sheets to the property owner upon making the offer.
- F. Reviews the right of way plans and title report(s) with owner for accuracy and completeness. In the case of a partial acquisition, points out the impact of the project on the remaining property such as water rights, drainage, access restrictions, road approach details, etc.
- G. If there are no persons or personal property displaced by the state's acquisition, the agent so states in the diary.
- H. Provides the owner with the *Transportation Property Needs and You* booklet.
- I. Provides the owner with an original and one copy of all instruments necessary for the transaction.

Chapter 15

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15-1 Acronyms

| | |
|-------|---|
| ALPE | Assistant Local Programs Engineer |
| AOS | Administrative Offer Summary |
| CA | Certification Acceptance |
| CFR | Code of Federal Regulations |
| DCE | Documented Categorical Exclusion |
| ECS | Environmental Classification Summary |
| FHWA | Federal Highway Administration |
| FONSI | Finding of No Significant Impact |
| GC | Governmental Agreement for Aid |
| H&LP | Highways and Local Programs (Headquarters) |
| HQ | Headquarters (usually WSDOT RES Headquarters) |
| LAC | Local Agency Coordinator |
| LAG | Local Agency Guidelines |
| LAPM | Local Agency Program Manager (Headquarters) |
| LP | Local Programs (Region) |
| LPE | Local Programs Engineer (Region) |
| LPA | Local Public Agency |
| PFE | Project Funding Estimate |
| QA | Quality Assurance |
| QC | Quality Control |

| | |
|-------|--|
| RES | Real Estate Services |
| RESM | Real Estate Services Manager |
| RCW | Revised Code of Washington |
| ROD | Record of Decision |
| ROW | Right of Way |
| URA | Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended |
| WAC | Washington Administrative Code |
| WSDOT | Washington State Department of Transportation |

15-2 Purpose

This chapter explains the requirements and conditions to ensure compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. This chapter is to be used by WSDOT and local agencies for guidance and oversight of right of way projects that will require certification by the Federal Highway Administration (FHWA).

15-3 Authority

23 CFR 1.11

23 CFR 635.105

49 CFR Part 24

WAC 468-100

RCW 8.26

15-4 References

Construction Manual M 41-01

Environmental Procedures Manual M 31-11

Local Agency Guidelines M 36-63

H&LP web page

Local Project Search

STIP

15-5 Policy

The acquisition of private property for public use is governed by a host of state and federal rules and regulations. On federal aid projects, the WSDOT ROW Program has overall responsibility for the acquisition, management, and disposal of real property. Through the Stewardship Agreement between WSDOT and FHWA, WSDOT is responsible for ensuring that all aspects of LPA projects are carried out in compliance with federal statutes, regulations, and policies. WSDOT Highways and Local Programs (H&LP) is the lead office for ensuring this compliance. Partially funded by the H&LP Office, the Headquarters RES LAPM is the lead in ensuring LPAs are acquiring ROW in accordance with the URA and 49 CFR Part 24.

LACs are WSDOT's primary oversight agents. They provide technical assistance and ensure compliance with federal statutes, regulations, and policies for the LPA ROW Program. LACs look for opportunities to attend project tours with LPAs on all projects with federal funding when or if they are available.

15-6 Training

Instructor-led and/or web-based training will be available. This training is required for WSDOT RES Supervisors, Region RESMs, LACs, and any staff involved in oversight of federally funded LPA projects. Training is recommended for project engineers, project development engineers, and project managers. Training will be made available to both consultants and local agencies.

Real Estate Training Spreadsheet (Under Construction)

Local Agency Training

The LAC provides/facilitates annual structured training open to all LPAs and consultants that address the requirements for a federal aid project. If requested or the LAC determines the need, the LAC provides one-on-one or group project-specific training to LPAs on the URA and the ROW process on federal aid projects and/or any projects wishing to preserve federal aid eligibility. This training should be tailored for the project according to the LPA's approved procedures and the ROW acquisitions needed for the project. For instance, if the LPA is using consultants, the training should be for the LPA management approval activities (e.g., agency approval of just compensation, agency approval of administrative settlements, going to condemnation).

15-7 Forms/Resources

Spot Check or Certification Review Package

| | |
|---|---------|
| Project Review Worksheet | LPA-011 |
| Parcel Review Worksheet | LPA-012 |
| Residential Relocation Review Worksheet | LPA-013 |
| Non-Residential Relocation Review Worksheet | LPA-014 |
| Personal Property Only (PPO) Review Worksheet | LPA-015 |
| Certification Review Oversight Report | LPA-016 |
| Certification Review Transmittal Letter (Cert 1 or 2) | LPA-017 |
| Certification Review Transmittal Letter (Cert 3) | LPA-018 |
| Sample Size Determination Form | LPA-019 |
| Certificate Letters – Chapter 17 | |
| Certificate Worksheets – Chapter 17 | |

RES-300 Diary

List of Probing Questions

Local Agency Active Project Status Report (Under Construction)

FHWA Annual Statistical Report

15-8 Definitions

Active Project – A project where offers have been made to property owners for the acquisition of real property interests.

Obligation of Federal Funding – The obligation of federal funding is the approval (authorization) by FHWA to participate in a share or portion of federally eligible expenditures on an agreed-upon scope of work (also known as a project). This commitment occurs when a project phase or additional funding for a phase is approved and the project agreement is authorized by FHWA. The dollar amount of federal funds approved on the project agreement is known as the obligation of federal funds. Only after the agency receives written authorization from H&LP are costs incurred eligible for reimbursement.

15-9 Oversight Roles/Responsibilities/Expectations

Region RES Local Agency Coordinator

Role

Each region office has a Local Agency Coordinator (LAC) who acts as the liaison between the LPA and WSDOT and is the RES point of contact for ROW acquisition issues. The LAC is a permanent WSDOT employee recognized to have broad experience in all areas of ROW work, with expertise in acquisition and in at least one of four other areas – land title, appraisal, relocation, or property management.

This position provides guidance and technical support to LPAs and identifies ROW issues early in the process. The LACs provide specific training regularly and as they determine necessary. The LACs involve the RESM, LAPM, and the LPE in any contentious issues or if the LPA indicates they do not agree with the LAC's guidance.

LAC Responsibilities/Expectations/Key Functions

- Provide/facilitate training to LPAs.
- Assist LPAs with getting ROW procedures approved or revised.
- Assist LPAs with documenting eligibility to receive ROW funding authorization.
- Coordinate with the LPE/ALPE.
- Proactively reach out to LPAs to have a pre-ROW acquisition contact for federal aid projects.
- Answer LPA questions, provide assistance, and ask probing questions of LPA to gain understanding of the project.
- Provide input regarding suggested process improvements to LAPM.
- Perform spot check reviews prior to receiving the request for ROW certification from the LPA to ensure there are no surprises at certification.

- Perform ROW acquisition certification reviews utilizing the appropriate review worksheet, List of Probing Questions, and either the Sample Size Determination Form (LPA-019) or supply the methodology used to determine the selected sample size.
- Prepare a certification review package using the templates provided.
- Sign the ROW Certification.
- Participate in QA and QA/QC reviews.
- Track and report Region LAC activities using the Local Agency Active Project Status Report.
- Coordinate with LPAs regarding the FHWA Annual Statistical Report, and obtain data from the LPAs and transmit to the LAPM.

Region Real Estate Services Manager (RESM)

Role

This position ensures that all property rights acquired by the LPA followed applicable statutes, regulations, and policies. The RESM supports the LAC decisions if the LPA is not in agreement with the LAC's guidance.

Responsibilities/Expectations

- Support LAC as circumstances warrant.
- Make LPA oversight a region priority.
- Sign certification.
- Coordinate with the LPE/ALPE.

Region Local Programs Engineer/Assistant Engineer

Role

Responsible for delivery of the LPA program in the regions, this position coordinates with the LAC as soon as a federal aid eligible project is identified with the acquisition of property rights.

Responsibilities/Expectations

- Notify LAC of projects with ROW as soon as possible even if only local funds are used in the ROW phase. This will improve the coordination between Local Programs and RES.
- Keep open communication with the LAC regarding project progression and priorities and provide immediate communication of at-risk issues as they arise.
- Provide relevant project information to LAC on federal aid projects when unusual conditions or concerns arise.
- Transmit updates, comments, and questions to the H&LP as necessary.

- Awareness that ROW issues could be more than just a ROW phase – e.g., if there are encroachments that need to be cured.
- Maintain project file documenting eligibility of the LPA to receive ROW Funding Authorization, including the LAC review of Right of Way Plan, Project Funding Estimate or True Cost Estimate, and the approved Relocation Plan (if required).
- Submit Region RESM signed ROW Certificates to H&LP for final processing.
- Support LAC.
- Identify communication protocol between LACs, LPAs, and LPEs.

LPA/Consultant Reviewer – Headquarters

Role

This position coordinates LPA activities with the LAC and oversees general LPA training activities on federal aid projects statewide. The position manages and oversees the approved consultant procedures, Government Agreements (GC), and task assignments for WSDOT providing real estate services to LPAs. This position also provides technical guidance and assistance to LACs, LPAs, and consultants as requested relating to acquisition and relocation assistance activities. In addition, the reviewer provides assistance to the LAC to review relocation files during the project certification review.

Responsibilities/Expectations

Program Management

- Coordinate annual assessment of training needs with the LAPM.
- Coordinate and deliver ROW training to local agencies.
- Coordinate with appropriate staff to maintain and update training courses and core curriculum list by discipline.
- Track and manage Approved ROW Procedures for LPAs statewide.
- Maintain a list of approved consultants/LPA staff.
- Track GC Agreements and task assignments statewide.
- Lead QA or QA/QC reviews one to two projects per year statewide. Develop team, project selection, and report findings. Additional reviews performed at the discretion of HQ RES.
- Maintain and update ShareDot site.
- Maintain statewide Blog of LPA issues, best practices, lessons learned, etc.

Project Reviews

- Review and approve relocation plans.
- Support LAC/LPA/Consultant as circumstances warrant.

- Participate in regular reviews (spot checks/certification reviews).
- Coordinate LAC assistance between regions on larger or more complex projects.
- Coordinate assistance during the temporary absence of an LAC.

Local Agency Program Manager (LAPM) – Headquarters

Role

This position manages the LPA ROW Program and has ultimate responsibility for ensuring that ROW acquisition for LPA projects is carried out in compliance with federal laws and regulations. The LAPM provides oversight, guidance, direction, and training to the LACs when dealing with federal aid transportation improvement projects. Also provides support and training to the LACs and assists in providing training to LPAs and consultants.

Responsibilities/Expectations

- Support LACs as necessary, answering questions and clarifying policy issues.
- Involve FHWA and H&LP as necessary regarding compliance issues, interpretations, clarifications, etc.
- Develop/update policies as warranted in response to regulatory changes or new FHWA policy.
- Consult with H&LP in the development of policies and procedures.
- Coordinate with H&LP on all issues that affect LPA projects and contacts H&LP on any issues that may jeopardize certification on a project or that require FHWA participation in issues resolution.
- Assist in providing training to LPAs and consultants.
- Develop, provide, and track training for LACs.
- Prepare an annual assessment of LPA training needs.
- Facilitate regular meetings with LACs to discuss current issues.
- Track and report LPA program activities, i.e., certifications, reviews, local agency variance from approved procedures, oversight issues, best practices, shared experiences. Report annually to FHWA on LPA program activities.
- Provide articles for the LTAP newsletter as needed.

Highways and Local Programs (H&LP)

Role

This department is responsible for overseeing delivery of the LPA program and providing policy guidance and direction to Region LPEs. Coordinates with the LAPM, LPEs, and FHWA on issues related to LPA ROW acquisition.

Responsibilities/Expectations

- Consult with the LAPM in the development of policies and procedures that impact ROW and proposed change to the LAG relevant to ROW.
- Coordinate with LAPM on all issues that affect LPA projects and any issues that may jeopardize certification on a project or that require FHWA participation in issues resolution.
- Notify LAPM of non-ordinary ROW issues on projects that require additional assistance from HQ RES.
- Transmit questions to the LAPM and Director of Real Estate Services as necessary.
- Notify the LAPM of potential changes in oversight processes and methods that may impact ROW activities.
- Support LAPM, LPEs, and LACs as circumstances warrant.
- Submit project authorizations to FHWA for final approval.
- Schedule and track LPA training through the LTAP center.

FHWA ROW Program Manager**Role**

This position provides oversight, guidance, and direction to the WSDOT RES Program on federal aid highway transportation projects.

Responsibilities/Expectations

- Interpret the URA and regulations.
- Clarify policy issues.
- Provide guidance and feedback on compliance issues.
- Track program trends.
- Perform regular process reviews.
- Assist in providing training to WSDOT, LPAs, and consultants.
- Approve ROW Certificate #3, as well as Qualified Certificate #1 and #2s submitted by LPAs through WSDOT.
- Work with WSDOT to create programmatic approvals to streamline process.

15-10 Communication/Coordination

Communication is essential to allow WSDOT to fully perform their oversight responsibilities. It also provides a mechanism for LPAs to initiate contact if they have any questions. The following are some specific communication tools.

Answer LPA Questions, Provide Technical Assistance, and Ask Probing Questions

The LAC responds to requests from LPAs to provide technical assistance, advice, and answer questions. The LAC explains and clarifies the URA and its implementing regulations in the 49 CFR Part 24, RCW 8.26, WAC 468-100, LAG Chapter 25, and this manual. The LAC is expected to assist the LPA to identify and correct issues during the acquisition process, and to contact RES HQ as needed. The LAC keeps open communication with the LPE/ALPE and with the LAPM. The LAC will involve the RESM, LPE/ALPE, and LAPM in any potentially contentious decisions or if the LPA indicates they do not agree with the LAC's guidance. The LAC will coordinate with the LPE/ALPE on project related issues.

Documentation of Contact With the LPA

Each LAC shall maintain written documentation of important issues, contacts, and developments which could be a diary or emails. For example, if the LAC finds problems, then there should be a diary entry or sufficient emails to tell the story. It is important to document the file to remember key events and keeping a diary is considered a best practice. Diary entries for normal contacts are sometimes useful, but the intent of having the LAC keep diary entries is to be able to have a written record of what was communicated with the LPA in case there are later questions about whether the LPA has complied with LAC requests. If the LAC determines a written record is necessary, it should:

1. Be retained in a project file and should summarize important contacts and developments (tell the story).
2. Include copies of important emails in the project file.

How Do the Region Local Programs Engineers Find Out About LPA Projects?

- The LPE may be contacted by the LPA about a project the LPA may want to make eligible for future federal funding or want instructions now that their project is on the STIP.
- The LPE's office may receive a courtesy copy of a funding assignment letter sent to the LPA by H&LP.
- The LPA submits a funding package via DOT Form 140-101 EF.
- The LPA submits a ROW plan for review.

How Do the LACs Find Out About LPA Projects?

- The LPE provides information about the project. Sometimes WSDOT won't yet know if there is a ROW phase.
- The LPA contacts the LAC directly.
- The consultant for the LPA contacts the LAC directly.

Once the LAC Finds Out About the Federally Funded Project From Local Programs or the LPA, What is the LAC's Next Step?

- If notification comes from the LPA, then the LAC will contact Local Programs to inquire if the project is federally funded. If the LPA is just trying to preserve eligibility for federal funding at a later date, they need to contact Local Programs to request a compliance review and provide charge numbers.
- Ask probing questions from the review worksheet.
- Obtain a copy of the ROW plan from the LPA if it has not been submitted already.
- Contact via phone call or email (keep Local Programs informed).
 - Experienced agency with a good history – phone call may be sufficient.
 - Inexperienced agency with an experienced consultant – phone call may be sufficient with both LPA and consultant.
- Decide if and when meetings are necessary (depends on the agency, the consultant involved or the complexity of the project).
 - Things to consider when determining when a project is complex include: number of acquisitions, relocations (mixed use and/or non-residential), partial acquisitions that may impact the use of the remainder, project controversy, etc.
 - Complex projects may require several meetings throughout the project (monthly status meetings, quarterly, etc.).
 - Non-complex projects may require an initial meeting with follow up by phone.
- Attend a project tour if available.
 - Physically viewing a project is a great way to prompt conversation and view the parcels being acquired.
- Maintain communications with LPA and LPE throughout their ROW phase.
- Update approved procedures if necessary.

Outreach to Local Agencies From Local Programs and LACs

- H&LP will communicate the importance of the pre-ROW acquisition contact to the LPAs.

- Through training and communication WSDOT will advise LPAs to identify projects with ROW phases or projects where they would like to preserve federal eligibility early during the project prospectus stage. WSDOT will provide guidance to the LPA if a ROW phase is necessary post-prospectus.
- Region Local Programs will continue to communicate and coordinate LPA ROW activities.
- LACs will initiate contact with LPAs if they hear of a federal aid project with a ROW phase.
- County-wide or region-wide LPA meetings.
- Annual, quarterly, or semi-annual LPA meetings.
- LTAP web page postings.
- Write articles for LTAP newsletter.
- Emails to LPAs.
- Training – NHI, IRWA, and WSDOT staff.
- Conferences – AASHTO, IRWA, APWA, and outside networking sources.
- LAC will assist LPA with getting ROW procedures approved or revised.

Pre-ROW Acquisition Contact

Proactively Reach Out to LPAs to Have a Pre-ROW Acquisition Contact for Federal Aid Projects

The LAC should contact the LPA as soon as they learn or are notified of an LPA project, even if the LAC learns or is notified after acquisitions have started. The intent of this early contact with the LPA is for the LAC to gain an understanding of the proposed project and the ROW needs. It is the time to decide on the frequency of spot checks and an opportunity to discuss any possible risks. This contact can be an in-person meeting, an email, a phone call, a GoTo Meeting, or other forum deemed sufficient by the LAC.

The purpose of the pre-ROW Acquisition Contact with the LPA is to gain understanding of the proposed federally funded LPA project and ROW needs. The pre-ROW acquisition contact with the LPA is highly encouraged but it is not a requirement, and the lack of a pre-ROW contact will not affect certification of the LPA project in the event early contact does not take place. The LAC should, however, proactively reach out to LPAs to initiate this early contact.

There are a variety of ways an LAC can learn about a project. The two most common ways are the LPA contacts the LAC or the LPE contacts the LAC. Regular communication between the LPE/ALPE and the LAC will foster improved project awareness. Ideally, contact by the LPA will occur by the time project design is 30 percent complete. It is at this stage that the LAC can begin to assess ROW needs with some certainty. The Local Agency Active Project Status Report can also be a useful communication tool.

Project Specific Knowledge

Development of a Project Funding Estimate or True Cost Estimate can disclose many of the effects of the projects, but nothing compares to an actual physical inspection accompanied by engineering staff having in-depth knowledge of the project design. The number of parcels, complexity, or degree of project effect should govern the LAC's need to meet with the LPA in person or by phone.

An LPA that either includes sufficient funding in the state line of their Local Agency Agreement or, lacking identified project funding, makes a request to set up a reimbursable J-agreement to fund involvement of the LAC in a project real estate scoping effort, would be demonstrating a progressive understanding of how to take advantage of the expertise available to them. It would also serve as a training opportunity for their staff.

Probing Questions to Ask the LPA

- Ask the LPA if they have had any contact with Local Programs (most of the time they haven't made contact with Local Programs if there is no federal funds available to apply for, etc.)?
- Is there a work order?
- Are there federal funds involved in the right of way phase or in other phases only?
- Will there be a right of way phase, and how will it be funded?
- Status of right of way plan?
- Status of True Cost Estimate or Project Funding Estimate?
- Status of environment clearance? NEPA?
- Is Relocation anticipated? Is there personal property or people in the acquisition area?
- Are there encroachments in the existing right of way?
- Are there any anticipated hardships? For example, health issues among potential displaced persons that may require early acquisition.
- Have you prepared a relocation plan? If so, has it been submitted to WSDOT for approval?
- How did you acquire the existing right of way?
- Will you be acquiring access rights?
- If an AOS is proposed to be used to determine value, is the value problem uncomplicated and anticipated to be less than \$25,000?

Communication Protocols

LAC-Region Local Programs Staff

Share project-specific information as it becomes available, such as when an LPA contacts the LAC with early acquisition questions or when the LPE receives an H&LP letter notifying the LPA that they are receiving project funding.

LAC-LAPM Communication

Regularly occurring LAC meetings.

LAC Diaries – Description of types of activities to include in diary, summary of activities, direction provided, and observations.

LAPM-LPA Communication

Coordinate and/or write articles for LTAP newsletter.

15-11 LPA-Approved ROW Procedures

H&LP is the approving authority for each Agency's Approved ROW Procedures. The Standards and Procedures Engineer is the approving authority. The process to get procedures approved is as follows:

1. LPAs are required to update their procedures for one or more of the following reasons:
 - a. Staff turnover.
 - b. Approved procedures are more than three years old. If so, the procedures are examined to determine if they require updating.
 - (1) **Note:** If the LPA does not have a federal aid project in the foreseeable future, the procedures do not need to be updated even if they are beyond the three-year time period.
 - (2) **Caution:** If a LPA is thinking of doing early acquisition for an unfunded project, the LPA needs to have updated procedures.
 - c. A change is requested regarding who can perform specified activities.
 - d. Revisions to the Local Agency Program, such as statutory, regulatory, or policy changes.
2. LPAs contact LACs for input and LPAs draft new procedures.
3. LPAs submit unsigned, draft procedures either to the LPE or the LAC as per the LPE's communication protocol.
4. LACs review draft procedures and provide feedback to LPA or comment to the LAPM as appropriate.

5. LAPM reviews draft procedures and provides feedback to the Standards and Procedures Engineer.
6. Standards and Procedures Engineer edits procedures to include any additional WSDOT requirements.
7. Standards and Procedures Engineer signs acceptance approval letter and sends to LPA with a copy to the LAC, LPE, and the LPA Consultant Reviewer.
8. If the LAC feels the LPA is not performing, the LAC can require a change to procedures during a project. The LAC will discuss this with the RESM, LPE, and LAPM before deciding to proceed with modifying procedures. Any changes to procedures will be approved through the normal approval process.

LPAs are required to complete and submit the FHWA Annual Statistical Report to WSDOT as stated in their Approved ROW Procedures. The report should contain those parcels that were acquired or relocated within the reporting period.

It is important for LPAs to know that they should be aware their project could be selected for a spot check review.

LACs Assist LPAs With Getting ROW Procedures Approved or Revised

Procedures should match the expertise level of the LPA staff and processes (how they do business) the LPA employs to accomplish their projects' ROW phases. The LAC should request any updates to approved LPA procedures at the same time the LAC requests information from the LPA for the Annual FHWA Statistical Report. All future revised procedures will include language that all federal aid projects are subject to oversight reviews at any time during the acquisition process as required by WSDOT's oversight program. If at any time during a project the LAC feels the LPA is not performing as required, the LAC may require a change to the LPA's Approved ROW Procedures. The LAC will discuss this with the RESM, LPE/ALP, and LAPM prior to taking such action. Any changes to procedures will be subject to the normal approval process. Notice to the LPA that they need to fill out the FHWA Annual Statistical Report will be one of the stipulations within their procedures.

15-12 Funding

See LAG Section 25.4 for specifics on right of way funding authorization and the notification process.

LACs Assist LPAs With Documenting Eligibility to Receive ROW Funding Authorization

Review and provide comments to the LPA and the LPE/ALPE on the LPA's approved Right of Way Plans, Project Funding Estimates, or True Cost Estimates. The LAC also coordinates the review of any Relocation Plan with the LPA/Consultant Reviewer or WSDOT State Relocation Reviewer.

Charge Codes

The following are different ways in which a charge code can be created:

Local Agency Agreement

The purpose of the Local Agency Agreement is to obligate federal funding. A work order is established to which labor charges may be applied up to the dollar amount provided in the STATE line. With LPAs, LPEs, and RESMs prior approval, may provide or coordinate Region RES staff in providing direct de minimus assistance with right of way work to the LPA.

See LAG Chapter 21, The Project Prospectus.

Governmental Agreement for Aid and Task Assignment

The purpose of the Governmental Agreement for Aid (DOT Form 224-076 EF) is to provide general terms and conditions under which WSDOT RES will provide real estate services for an LPA's project under a Task Assignment. The GC is reviewed and approved by the LAPM and is valid for an initial five-year period. The GC may be renewed for an additional three years. The LPA will submit a written request to the LAPM for review and approval.

Task Assignment – A Task Assignment is a supplement to the GC that is project specific. It includes a description of the proposed project, the work that the LPA is requesting WSDOT RES to perform, an estimated costs of the work, and a date by which all work is to be completed. If additional costs or time is required, an amendment to the Task Assignment may be requested by the LPA. A work order is established to which labor and overhead costs may be charged, and may be tied to the work order pertaining to the Local Agency Agreement for the project. If there is no Local Agency Agreement, then a reimbursable J Agreement is required.

Reimbursable “J” Agreement

A reimbursable “J” agreement is for an identified purpose and is normally used when there is no other funding agreement in place. It is coordinated by the LPE and sent to the LPA for execution. The preparation of “J” agreements varies from region to region.

LAC Position Funding

Time spent providing LPAs with technical assistance, training, and document review and processing is charged to either a work order established by H&LP or to the LPA's Local Agency Agreement project work order or to an established reimbursable agreement. If there is no available work order, the LAC will work with their Region Local Programs Office to provide a funding source for the LAC and HQ LPA/Consultant Reviewer's efforts.

LAPM Position Funding

Approximately 75 percent of the LAPM overhead funding is provided by H&LP to provide oversight of the LPA ROW Program. The LAPM will not charge projects for general oversight activities, but may charge if technical assistance is provided.

LPA/Consultant Reviewer – Headquarters Position Funding

Time spent providing LPAs with technical assistance and training is charged to either a work order established by H&LP, or to the LPA's Local Agency Agreement project work order or to an established reimbursable agreement. If there is no available work order, work with the LAC to provide a funding source for their efforts. This is typically accomplished through a request to the LPE's office.

15-13 Early Acquisition

Early acquisition, sometimes also referred to as advanced acquisition, is when property is acquired for a project before a NEPA decision (DCE (aka ECS), FONSI, ROD) has been made. When early acquisition occurs, FHWA must concur that the acquisition did not influence the selection of the project's alternative or the LPA's decision to fund the project. The process that has been established to get this concurrence is for the LPA to complete Appendix N and attach it to the ECS. It is not the LAC's responsibility to ensure that Appendix N is sufficiently filled out. If the LAC becomes aware that the LPA is pursuing early acquisition, they should advise the LPA regarding the need to follow the early acquisition process identified in the WSDOT ECS Guidebook and form template available online at the H&LP Environmental Services web page.

The LPA may request advisory and review services by the LAC for their early acquisition parcels, which should be funded by a reimbursable agreement. Such activity shall be conducted as per the LAG and this manual.

If an LPA acquires a property or property interests under Early Acquisition procedures and later wishes to incorporate the property into a federally funded project, the LPA will need to maintain records for that parcel so they do not jeopardize federal participation on the project.

Compliance Reviews

Compliance reviews are essentially the same review as a certification review for projects that have ROW acquisition but do not currently have federal funds designated/assigned to the project. An LPA can request a compliance review after the acquisition is complete to ensure that their acquisition activities have been done in compliance with the URA, and the project is eligible for federal funding.

Records Retention

The LPA is required to keep their files on the early acquisition parcels for three years after construction is authorized.

15-14 PFE/Relocation Plans/Right of Way Plans

When a preferred project design alternative has been selected, an LPA will need to obtain a PFE with a complete data package and parcel worksheets if the LPA intends to either:

- Use the appraisal waiver process, or
- Seek ROW funding authorization.

An LPA seeking to secure, or to maintain eligibility of their project to receive, federal funds needs to always have an approved Right of Way or Property Acquisition Plan, as well as a Relocation Plan if persons, businesses, non-profit or farms, or personal property only, is/are occupying future right of way (see Completing the Project/File Review in Section 15-17). The LAC can themselves or with assistance from other WSDOT staff experts, review preliminary and final versions of such estimates and plans, and provide advice to the LPA.

15-15 Regulatory Issues

An FHWA Programmatic Approvals Guide is being developed by WSDOT/FHWA that will provide a description of potential regulatory issues the LAC may encounter through normal communication with an LPA, and as a result of a spot check or certification review. This spreadsheet will summarize who has the authority to make a decision on how to deal with a potential problem. WSDOT and FHWA will approved this spreadsheet through a Programmatic Agreement (under construction), so if anyone proposes to deal with an identified issue differently than as presented in the spreadsheet, you will immediately need to contact the LAPM.

15-16 Spot Check Review

Spot check reviews are a proactive measure intended to lessen the risk that LPAs engage in improper practices that result in irreversible problems or compliance issues that could delay or stop ROW certification or risk federal funding on current and/or future federal aid projects. Such risks are reduced by elevating the LPA's awareness of the LAC's project monitoring and by providing an early opportunity for the LAC to help the LPA identify problems before they become compliance issues. WSDOT's acquisition file review process is intended to ensure that the LPA has in fact completed the ROW acquisition process in compliance with federal regulations before we make our certification to FHWA.

The LAC will perform spot check reviews on selected federal aid or federal aid eligible projects. The number of spot check reviews is dependent upon the scope of the project, complexity of acquisitions, the LPA's level of experience, and the LPA's past performance. Spot check reviews are not required on all projects. The LAC should, at a minimum, perform spot check reviews on at least a 25 percent of the annual active LPA projects in their region. However, the LAC is required to perform spot check reviews on active projects of those agencies having past performance problems or if the agency lacks sufficient experience acquiring ROW under the URA.

The LAC will compute the minimum number of LPA project reviews based on the number of annual active projects in their region for that particular year. For example, if the LAC has 20 active projects then a minimum number of five projects must have spot check reviews based on the 25 percent requirement (number of annual projects x 25 percent = number of projects to spot check).

If a spot check review on a project is determined to be necessary by the LAC, it is anticipated that there will be a minimum number of files reviewed for smaller, less complex projects and a larger percentage of files reviewed for larger and/or complex projects or acquisitions. The LAC will utilize the sample template to compute the number of files to be reviewed or they will supply their methodology on how they selected their sample size to review.

The LAC is expected to identify and assist the LPA in correcting issues during the acquisition process, and to involve the RESM, ALPE/LPE, and the LAPM on regulatory issues. The LAC provides timely follow up with LPAs on results of spot check reviews. If compliance issues exist that are questionable or irreversible, the LAC will involve the RESM, LPE/ALPE, H&LP, and the LAPM.

Possible elements and associated risks that need to be considered in developing the frequency of spot check reviews may include:

1. Legal nature of the property ownerships.
 - Individual, corporation, joint ownership, condominium, cooperatives, not-for profits, public entities, public official ownerships – potential conflicts of interest, etc.
2. Physical nature and location of the property.
 - Waterfront, tidelands, geo-tech hazards, active resource extraction, urban, rural, etc.
3. Occupancy of the property.
 - Owner, tenant, residential, business, non-profit, farm, long-term, short-term, etc.
 - Relocation assistance.
 - Functional replacement of public facilities.
4. Effects of the project design on real estate.
 - Partial acquisition, total acquisition, easements, grade separation, access rights, light, view and air, etc.
5. Complexity of appraisal issues.
 - Tenant owned improvements, multiple remainders, unique improvements, special benefits, timber, minerals, crops, etc.

6. Property management.
 - Are there encroachments to be cleared?
 - Environmental issues/commitments.
7. Experience level of staff/LPA or consultant(s) with real estate acquisition under the URA.
8. Staff/LPA or consultant(s) past record of issues with URA compliance.

Completing the Spot Check Review

The major difference between a spot check review and a certification review is that the project is not complete, so the LAC should focus on the actions taken by the LPA up to the point of spot check review for compliance with the URA.

15-17 Certification Review

Prior to certifying to FHWA that an LPA has acquired the rights necessary to construct its project, WSDOT requires that the LPA certify to WSDOT that the right of way acquisition work has been completed in compliance with the federal regulations. It is important to be certain the LPA has complied with the federal regulations because FHWA holds WSDOT accountable for compliance, not the LPA. If FHWA determines that a project is not eligible for federal aid because of a ROW compliance issue, they will seek reimbursement of the funding from WSDOT, not the LPA. It would then be up to WSDOT to seek reimbursement from the LPA.

Approximately one month prior to advertising its project for construction, the LPA submits its Right of Way Certificate #1, #2, or #3 with Certificate Worksheet to the Region Local Programs Office. The Right of Way Certificate should show the current status of right of way acquisitions on the project, not a projection of what the agency hopes it will be at some point in the future. The typical process is the Local Programs Office forwards the certificate to the Region LAC for action. Whenever an agency desires to obtain a Certificate #3, it should be discussed with the LAC, Local Programs, and LAPM as soon as it is known or determined that such a certificate will be requested.

After receiving the certificate request, the LAC:

1. Checks with Local Programs to make certain the appropriate labor charge codes are in place.
2. Checks to make sure agency has current approved right of way procedures.
3. Ascertains the size and complexity of the job to determine whether additional help or specific experts to assist in the review are necessary.
4. Contacts the agency to schedule the review of project right of way acquisition files.

Completing the Project/File Review

Project acquisition files are reviewed for compliance with the agency's Approved ROW Procedures, LAG Chapter 25, and 49 CFR Part 24. This review should be done utilizing the Project Review Worksheet (LPA-011) and the Parcel Review Worksheet (LPA-012) (see LAG appendices) as a guide. The LAC will use either the sample size determination form to help determine the scope of the certification review or will write a methodology section in the certification report that describes the reasoning for determining the selected sample size. If the LAC feels a larger sample size is necessary, they may increase the sample size at their discretion. If they feel the sample size is too large, they can contact the LAPM about using a smaller sample. If a smaller sample size is used, the LAC will document the reasoning and obtain LAPM concurrence.

Specific areas to be reviewed (see Section 15-7):

1. Right of Way Plan (LAG Subsection 25.41)

- a. The ROW plans should meet the requirements of WAC 332-130 and show at the minimum the following information:
 - (1) Vicinity map with the beginning and end of the project in relation to readily identifiable neighboring features.
 - (2) Survey line or centerline for the alignment.
 - (3) The old and new ROW limits with sufficient ties to the survey line to allow for legal descriptions of the areas to be required.
 - (4) All rights to be acquired, for example, easements and permits.
 - (5) Ownership boundaries of the parcels with rights to be acquired.
 - (6) Parcel identification number.
 - (7) Area of the larger parcel.
 - (8) Area of parcel to be acquired.
 - (9) Area of the remainder.
 - (10) All existing approaches.
 - (11) All improvements that will either be acquired or damaged by the agency or moved from the new ROW by the property owner or tenant.
 - (12) All known encroachments.
 - (13) The seal and signature of a registered Professional Engineer or Professional Land Surveyor.

- b. A best practice is to identify enough of the property around the acquisition to know if there are any issues (e.g. wells, septic systems, reserve drain field areas, irrigation systems, etc).

2. **Appraisal Waiver** (LAG Subsection 25.52)

- a. Did the agency follow its established procedures for the Waiver Process?
- b. Is the total estimate of just compensation greater than \$10,000 but less than \$25,000? If yes, did the offer letter state that an administrative offer was being made and an appraisal was not completed, and an appraisal would be prepared if requested by the property owner?
- c. Does the Administrative Offer Summary address all rights that are required to construct, operate, and maintain the proposed improvements?
- d. Are the areas and rights evaluated consistent with the right of way plan?
- e. Is there adequate “value finding evidence” to support the compensation estimate?
- f. Has the estimate been rounded to a reasonable amount?

Appraisal (LAG Subsection 25.51)

- a. Is the appraiser qualified per LAG requirements?
- b. Did he/she appraise the same property rights as are shown on the right of way plan?
- c. Was the property owner offered the opportunity to accompany the appraiser on the inspection of their property?
- d. Does the appraisal appear to be complete and comply, overall, with all Chapter 4 requirements?

Appraisal Review (LAG Section 25.6)

- a. Did either an agency staff member who has been approved by WSDOT, a WSDOT staff reviewer, or an appraiser from the WSDOT Approved Reviewer list review the appraisal?
- b. Does the review appear to be complete and in compliance with Chapter 5?
- c. Is it based on the most recent right of way plan?
- d. Has the reviewer provided a breakdown of compensation?
- e. Is the Determination of Value rounded to a reasonable amount?
- f. Is there sufficient analysis by the reviewer?
- g. Has reviewer determined whether there is an uneconomic remainder?

3. Set Just Compensation (LAG Section 25.7)

- a. Has the agency's appropriate authority established just compensation at not less than the approved appraisal? This can be accomplished either on a separate document or by signing a concurrence statement at the end of the appraisal review or Administrative Offer Summary as shown in LAG Appendix 25.176.

4. Offer Letter (LAG Subsection 25.91 and LAG Appendix 25.185)

- a. Has the agency made a written offer in the amount of the established just compensation?
- b. Is the offer consistent with the right of way plan and the area to be acquired (i.e., are revised offers made for any changes made to the right of way plan)?
- c. If federal aid is used in the right of way phase, is the date of offer subsequent to environmental and ROW phase approval?
- d. Is the date of offer subsequent to approval of just compensation?
- e. Does the letter include a breakdown of the just compensation, basic condemnation information, and information on the \$750 statutory evaluation allowance?
- f. If the offer is an administrative offer, has agency taken care not to infer that an appraisal was completed?
- g. Did the agent provide the owner with *Property Needs and You* booklet or other document explaining their rights?
- h. If not, is there sufficient documentation in the diary showing that the owner's rights were adequately explained?

5. Administrative Settlement (LAG Section 25.11)

- a. If the agency has settled at an amount greater than the approved just compensation, is the settlement approved in compliance with agency procedures?
- b. Is it based on the correct amount and properly justified?

6. Donated Property (LAG Section 25.10 and LAG Appendix 25.177)

- a. If all or a portion of the required right of way has been donated, is there a donation statement for the amount donated?
- b. Has the appraisal also been waived?

7. Title Report (LAG Section 25.8)

- a. Does the agency have reasonably current evidence of title? This is a matter of judgment, but in an active market updates may be required if the report is more than six months old. The preferred evidence of title is a preliminary commitment for title insurance from a title insurance company, with supplements as required. At a minimum, a last deed of record is necessary, but such minimal evidence should be accepted only on low value or minimal property rights acquisitions (e.g., permit).

8. Title Clearing (LAG Section 25.8)

- a. The title to acquired parcels should be cleared so that the agency has its interest in the parcel subject only to encumbrances that are deemed to be reasonable. The agency should assess the risk of each encumbrance and determine whether or not it needs to be cleared. Low value transactions can be given more latitude than high value (see Chapter 8 for specific examples).
- b. Has the agency provided documentation of the title clearing so the reviewer can determine the encumbrances are acceptable?

9. Acquisition Document(s) (LAG Subsection 25.91 and Chapter 6)

- a. Has the agency acquired the property rights (deed, easement, lease, permit, access rights, etc.) necessary to construct, operate, and maintain the proposed improvements?
- b. Is the term of any non-permanent right that was acquired long enough to support the proposed improvements (generally a minimum of 20 years; however, it will depend on the level of federal investment and could be significantly more than 20 years)?
- c. Is any cancellation clause that may be included acceptable? Specific requirements:
 - (1) Has the deed (or other acquisition instrument) been properly recorded?
 - (2) Does the legal description match the right of way plan? Was the same convention used for writing the legal as for drawing the plan (e.g., metes and bounds, stations, and offsets)? Can the reviewer follow the legal on the plan?
 - (3) Is grantor the same as shown on latest title supplement? Has the correct person signed for grantor? Does the signatory have authority to sign? Is there documentation (corporate resolution, etc.)?
 - (4) Is the conveyance document properly notarized? Did the notary use the correct acknowledgement for the type of ownership and signatories?

10. Proof of Payment

- a. Copy of payment check is preferable. Use judgment for other sources of payment verification, such as a voucher.
- b. Is there a bill for payment of, or other evidence of services provided and payment for reimbursement of the \$750 Statutory Evaluation Allowance?

11. Negotiator Disclaimer (LAG Section 25.9)

- a. Has the individual involved with the negotiation provided a signed disclaimer with language?
 - (1) The written agreement embodies all considerations agreed to by the negotiator and the property owner.
 - (2) The negotiator understands that the acquired property is for use in connection with a federal aid transportation project.
 - (3) The negotiator has no direct or indirect interest in the property or in any monetary benefit from its acquisition, at present or in the future.
 - (4) The agreement has been reached without any type of coercion.

12. Diary (LAG Section 25.15)

- a. A diary of right of way activities must be provided for each acquisition file. Brief notes or a collection of letters and emails does not constitute a diary. The diary needs to be a complete history of the acquisition. See LAG Section 25.15 or the FHWA's Acquisition Guide for LPAs for more details. All persons who participate in negotiations with a property owner to acquire real property interests will maintain a diary.
- b. Has every negotiator signed their diary?

13. Relocation (LAG Section 25.12)

- a. Is there is relocation on the project?
 - (1) Yes, is there an approved relocation plan?
 - (a) If yes, was it completed per approved procedures (e.g., staff, consultant, WSDOT)? As part of the right of way review, a relocation expert from Region or Headquarters should review all relocation files for compliance with the Uniform Relocation Act.
 - (b) If no, start communication with the LPA or their consultant to develop a relocation plan.

14. Other

- a. Is there any evidence in the file that might imply the owner has been coerced (e.g., rapid condemnation, inappropriate reference to condemnation, lack of adequate time to consider the offer, denial (implicit or explicit) of any rights provided under the Uniform Act, etc.)?
- b. Are files organized in a way that documents can be readily found and an auditor or other reviewer can independently (without aid of the acquisition agent) determine that the property was acquired in compliance with the federal rules?

15-18 Results of Review (Spot/Certification)

The LAC is expected to use the report template to prepare a Certification Review Oversight Report (LPA-016) for every project where a ROW certificate is needed. This report will summarize what was reviewed and any issues and remedial actions performed. If remedial actions are required, the report will summarize the steps taken by the LAC to define an acceptable remedial action, and the steps taken by the LPA to perform any remedial actions. This report contains review worksheets (LPA-011 to LPA-016), the Sample Size Determination Form (LPA-019) or a methodology write up, and other relevant project-specific details. The LAC will prepare a Certification Review Transmittal Letter (LPA-017 or LPA-018) to go with the Certification Review Oversight Report and send to the LPA. If corrective actions are identified, concurrence by the LAPM is required before sending to the LPA. A copy of the Certification Review Transmittal Letter will also need to be sent to the LAPM. A copy of the Certification Review Oversight Report and Certification Review Transmittal Letter will also be sent to the LPE.

Review Package

The following items should be included in the spot check or certification package that is sent to HQ RES:

- LPA-011 Project Review Worksheet
- LPA-012 Parcel Review Worksheet
- LPA-013 Residential Relocation Worksheet (if needed)
- LPA-014 Non-Residential Relocation Review Worksheet (if needed)
- LPA-015 Personal Property Only (PPO) Review Worksheet (if needed)
- LPA-016 Certification Review Oversight Report
- LPA-017 or LPA-018 Certification Review Transmittal Letter
- LPA-019 Sample Size Determination Form
- Copy of R/W Plan or equivalent

Certification Package

The following items will be sent to HQ RES from H&LP:

- Appropriate certificate with signatures.
- Certificate worksheet.

ROW Certificate Signature

The LAC and the RESM sign the LPA certificate and forwards it to the LPE for processing. Refer to Chapter 17 for certificate letter templates.

Post Review Tasks and Responsibilities

After the review is complete, LAG Section 25.13 requires that the LAC send a Certification Review Transmittal Letter (LPA-017 or LPA-018) to the agency. The original copy of the letter is sent to the agency official who requested the right of way certification. Additional copies are sent to the person at the LPA who is responsible for the right of way activities, the LAPM, the appropriate Region LPE, and the Region RESM.

Certification issues will be identified in the Certification Review Oversight Report and the LAC should contact HQ RES as necessary. The LAC provides timely follow up with LPAs and includes the consultant if appropriate on results of the certification review. If compliance issues exist that are questionable or irreversible, the LAC will involve the RESM, LPE/ALPE, H&LP, and the LAPM. The LAC will send the completed certification report to the LAPM and LPE.

1. If the coordinator determines that project right of way is ready for certification, the close out letter will detail the findings of the review and discuss any deficiencies found. Concurrently with issuing the close out letter, the LAC and Region RESM will sign the LPA's Right of Way Certificate and send it to the Region Local Programs Office for inclusion in the certification package to be transmitted to the HQ H&LP Office.
2. If the coordinator determines that project right of way cannot be certified, the LPE should be informed as soon as possible and given the opportunity for input into subsequent action. In cases of egregious violations of the federal rules, consequences can be as severe as loss of federal aid, loss of Certification Acceptance Status, or loss of authority to independently acquire right of way. None of these actions will be taken without the Region LPE and LAPM involvement.

Most problems are far less significant and may simply be corrected prior to signing the Right of Way Certificate. In these cases, a letter should be sent to the LPA, with distribution as discussed above, that details the deficiencies encountered and the corrective actions required before certification can be approved. The LAC will work with the agency to help the LPA comply with the federal regulations and provide any necessary training. If corrections are

relatively significant and/or numerous, it may be necessary to schedule another review with the agency. However, in less serious situations and with concurrence of the LAPM, the project can often be allowed to go to construction advertisement with some simple follow up such as a faxed or scanned document, or an agency assurance that they will complete the requested corrections as soon as possible. When the corrective actions are complete to the satisfaction of the LAC, the certification will be signed and processed as discussed above. A close out letter should then be sent to the agency confirming that the certification is complete.

All projects must ultimately have a Right of Way Certificate #1 or Certificate #2. In cases where an agency has been allowed to advertise construction with a Certificate #3, the agency is still responsible for completing remaining relocation work and/or acquiring the remaining rights necessary to construct the project in a timely manner. In the case of a conditional Certificate #3, it is particularly important to work with the agency and monitor progress on completing the conditional elements. Be certain that timelines are included for completion of conditional elements. These can often be the barriers to allowing bid opening or contract award. When the right of way work is complete, the coordinator will review the new information to determine if a Certificate #1 or #2 can be issued. If a clear certificate can be issued, it will be processed as discussed above.

Each time a Right of Way Certificate is issued, the information should be entered on the worksheet used to complete the FHWA's year-end Statistical Report.

15-19 Reporting and Tracking

The LAC will track and report the following Region LAC activities to the LAPM on a monthly basis using the Local Agency Active Projects Status Report. The LAC will collect annual LPA ROW statistics on all federally funded projects each fiscal year (October 1st – September 30th) and forward those reports to the LAPM by October 15th so the stats can be included in the FHWA Annual ROW Statistical Report. The LAC will also forward a copy of the Certification Package to the LAPM for retention in the official LPA file that will be retained in HQ RES prior to the LAMP forwarding the request for certification to FHWA.

Program Trends

The LAPM will take the information from the certification package, the spreadsheet, and the statistical report to analyze and report program trends that can be used to identify training needs. This information will be provided annually to FHWA.

ShareDot

The LAC, LAPM, and Local Agency Consultant Reviewer will utilize ShareDot to obtain and share information internally within WSDOT.

15-20 QA OR QA/QC Reviews (Flowchart)

The LAC will participate with the LPA and LPA Consultant Reviewer in QA reviews on completed projects. One to two projects will be selected annually on a statewide basis. The LAC should be prepared to participate if one of their projects is selected. Additional reviews can be done at the discretion of HQ RES. In the event an LPA is not on Approved Procedures and does not have sufficient or knowledgeable ROW staff to provide oversight, then WSDOT will perform a QA/QC review.

PMR – Project Management Review

H&LP performs a project management review for LPAs to maintain CA status.

15-21 Records Retention

The acquiring agency shall maintain adequate records of its acquisition and property management activities. Acquisition records, including records related to owner or tenant displacements, and property inventories of improvements acquired shall be in sufficient detail to demonstrate compliance with 23 CFR 710.201(f) and 49 CFR Part 24. These records shall be retained at least three years after certification of the project.

If an LPA acquires a property or property interests under Early Acquisition procedures and later wishes to incorporate the property into a federally funded project, the LPA will need to maintain records for that parcel so they do not jeopardize federal participation on the project.

15-22 LAG Chapter 25

Any interested party (LACs, LPAs, Local Program's staff, etc.) may suggest improvements or changes to LAG Chapter 25 which may be taken under consideration. The LAPM will be WSDOT's primary Real Estate Service's point of contact and will evaluate whether the requested changes are feasible and consistent with federal statutes, regulations, and policies with assistance from FHWA. The LAPM will work with H&LP and FHWA to facilitate changes and updates to the chapter.

PROJECT REVIEW WORKSHEET

PROJECT INFORMATION

| | | |
|-------------------------|---------------------------|-------|
| Agency: | Spot Check: | Y / N |
| Project Title: | Final Review: | Y / N |
| FA No: | Name of Reviewer: | |
| R/W Plan Approval Date: | Date of Review: | |
| | Number of Files Reviewed: | |

APPROVED PROCEDURES

| | | |
|---|-------|---------|
| Procedures Approved: Y / N | Date: | |
| <i>*see file for any special conditions</i> | | |
| Appraisal Waiver (AOS) Approved: Y / N | Date: | Amount: |

ADMINISTRATIVE SETTLEMENT POLICY

Level of authority

FUNDING & AUTHORIZATION (Y/N/Dates)

| | | |
|---|-------|--|
| FHWA Participation in R/W? | Y / N | |
| Local Programs R/W Authorization Date: | | |
| FHWA Participation in phase other than RW: | Y / N | Number of Parcels: |
| Number of Relocations: | | Relocation Plan Approved: Y / N Date: |
| Funding Estimate Date: | | |
| Number of Parcels acquired by condemnation: | | |

RIGHT OF WAY PLAN REVIEW (Y/N/Dates)

| | | | |
|--|-------|------------------------------|-------|
| Survey line or centerline shown: | Y / N | Ownership boundaries shown: | Y / N |
| Adequate ties to survey or centerline: | Y / N | Ownership information shown: | Y / N |
| Old and new right of way limits shown: | Y / N | Areas to be acquired shown: | Y / N |
| Adequate ties to survey or centerline: | Y / N | Remainder areas shown: | Y / N |
| Sec. Twn. Rng # 1/4-1/4's: | Y / N | Rights to be acquired shown: | Y / N |
| Scale, Legend, North Arrow: | Y / N | Approved by CE or PLS: | Y / N |
| Check against PS&E: | Y / N | | |

RELOCATION REVIEW

| | |
|--------------------------------|-------|
| Relocation: | Y / N |
| Number of Parcels: | |
| w/ Residential Relocation: | |
| w/ Non-Residential Relocation: | |
| w/ PPO Relocation: | |

UTILITIES

Utilities Agreement: Y / N NA In process ☐ or complete ☐ ?

NEPA

Law commitments requiring R/W incorporated into right of plan and PS&E? Y / N None

ROW APPROVED PROCEDURES

ROW activities performed in accordance with ROW Procedures? Y / N

NOTES

Number of AOS's prepared for project?

Number of Administrative Settlements for project?

LPA-011
Rev 3/13

LPA-011 Project Review Worksheet

PARCEL REVIEW WORKSHEET

Use the F11 key to tab through the stops. May select, underline and bold Y/N/NA as appropriate. Click in boxes to "check". Add rows for multiple items.

PROJECT INFORMATION

Agency: Spot Check: Y / N
 Project: Final Review: Y / N
 FA No: Owner:
 R/W plan approval date: Name of Reviewer: Date:

PARCEL INFORMATION

| Parcel No. | Acquisition Type | Area Size | Acquisition Type | Area Size |
|------------|------------------|-----------|------------------|-----------|
| | | | | |
| | | | | |

Larger Parcel issue (other than tax lots)? Y / N

Acquisition area in appraisal, offer letter and other documents agrees with acquisition area on R/W plan? Y / N

NEGOTIATOR'S RECORDS

Adequate diary: Y / N Signed by: Date:
 Disclaimer statement: Y / N Signed by: Date:

APPRAISAL/JUST COMPENSATION (JC)

Property owner offered joint inspection: Y / N / NA Date of owner/appraiser inspection:
 Tenant Improvements? Y / N Name of Preparer:
 Appraisal Date: Amount: \$ Name of Reviewer:
 Waiver (AOS) Date: Amount: \$ Review Date:
 Date JC \$ Set by Agency: \$ WSDOT List? Y / N

OFFER/SETTLEMENT

Offer Letter Dated: Amount: \$ Letter format: ☐ Appraisal ☐ Waiver
 Administrative Settlement Amount over JC: \$ Settlement Adequately Justified? Y / N / NA
 Total Final Settlement: \$ Settlement Approval Date:

Offer of SEA: Y / N

Uneconomic Remnant: Y / N / NA

Remnant Value: \$

Offer Made for Remnant: Y / N / NA

Donation signed: Y / N / NA Date:

Proper format: Y / N / NA

Possession and Use obtained: Y / N / NA

Possession Date:

Proof of payment into court: Y / N / NA

Payment Date:

TITLE REPORTS/CLOSING DOCUMENTS

Title Report Dated: Encumbrances Cleared: Y / N - Risk OK? Y / N

Proof of Payment: Y / N Proof type & identifier:

Payment Amount: \$ Payment Date:

CONVEYANCE / CLEARANCE DOCUMENTS

| Type (SWD, Esmt. etc.) | Dated | Recording # | Date Recorded | Legal OK? | Notary OK? |
|------------------------|-------|-------------|---------------|-----------|------------|
| | | | | Y / N | Y / N |
| | | | | Y / N | Y / N |
| | | | | Y / N | Y / N |
| | | | | Y / N | Y / N |
| | | | | Y / N | Y / N |
| | | | | Y / N | Y / N |

RELOCATION REQUIRED?: Y / N - Use Appropriate Worksheet

NOTES

RESIDENTIAL RELOCATION WORKSHEET**GENERAL**

| | | |
|------------------------------|-------------------|-------|
| Project Title: | Spot Check: | Y / N |
| Parcel Number: | Final Review: | Y / N |
| Name of Displaced Person(s): | Displacee No: | |
| Relocation Plan: | Date of Review: | |
| Date of Relo Plan: | Name of Reviewer: | |

REQUIRED NOTICES AND GENERAL FILE (Y/N/Dates)

| | | | |
|--|-------|---------------------------------------|----------|
| Occupancy Survey: | Y / N | Eligibility Report: | Y / N |
| General Notice of Relocation Rights: | Y / N | Notice of Eligibility: | Y / N |
| 90 Day Assurance provided: | Y / N | Lawfully Present in US Certification: | Y / N |
| Final Diary: | Y / N | If Necessary, W-9 Obtained: | Y / N NA |
| Owner Occupant <input type="checkbox"/> or Tenant <input type="checkbox"/> | | Appeal: | Y / N |
| | | If yes, include summary below | |

PRICE DIFFERENTIAL (Y/N/Dates)

| | | | |
|------------------------------------|----------|--|-------|
| Price Differential Report: | Y / N | Purchase & Sale Agreement: | Y / N |
| Housing Comparison Worksheet: | Y / N | Actual Price Differential Calculation: | Y / N |
| Correlations & Conclusions: | Y / N | Payment Instructions: | Y / N |
| Photographs & Map of Comps: | Y / N | Preliminary Closing Statement (HUD): | Y / N |
| Last Resort Housing Plan: | Y / N NA | Incidentals: | Y / N |
| D.S.S. Inspection Report w/photos: | Y / N | Mortgage Interest Differential: | Y / N |
| Proof of Payment: | Y / N | Final Closing Statement (HUD): | Y / N |

RENT SUPPLEMENT (Y/N/Dates)

| | | | |
|-------------------------------|-------|--|-------|
| Rent Supplement Report: | Y / N | Living Expense Verification (as needed): | Y / N |
| Housing Comparison Worksheet: | Y / N | Actual Rent Calculation: | Y / N |
| Correlations & Conclusions: | Y / N | D.S.S. Inspection Report w/photos: | Y / N |
| Photographs & Maps of Comps: | Y / N | Income Verification form (as needed): | Y / N |
| Last Resort Housing Plan: | Y / N | Proof of Payment: | Y / N |
| Rental Agreement/Receipt: | Y / N | | |

DOWN PAYMENT ASSISTANCE (Y/N/Dates)

| | | | |
|----------------------------|-------|--------------------------------|-------|
| Purchase & Sale Agreement: | Y / N | Final Closing Statement (HUD): | Y / N |
| Payment Instructions: | Y / N | Proof of Payment: | Y / N |
| Incidentals: | Y / N | | |

MOVING EXPENSES (Y/N/Dates)

| | | | |
|------------------------------------|-------|-------------------|-------|
| Commercial Move: | Y / N | Self move: | Y / N |
| Actual Cost Move: | Y / N | Move Amount paid: | \$ |
| Move Expense Agreement: | Y / N | Proof of Payment: | Y / N |
| Vacate Inspection Report w/photos: | Y / N | Vacate Date: | |

ADVISORY ASSISTANCE

In your opinion was appropriate advisory services provided to the displaced person? Y/N

NOTES

LPA-013
Rev 3/13

LPA-013 Residential Relocation Review Worksheet

NON-RESIDENTIAL RELOCATION WORKSHEET**GENERAL**

| | | |
|------------------------------|-------------------|-------|
| Project Title: | Spot Check: | Y / N |
| Parcel No: | Final Review: | Y / N |
| Name of Displaced Person(s): | Displacee No: | |
| Relocation Plan: Y / N | Date of Review: | |
| Date of Relocation Plan: | Name of Reviewer: | |

REQUIRED NOTICES AND GENERAL FILE (Y/N/Dates)

| | | | |
|---------------------------------------|-------|---------------------------------|----------|
| Occupancy Survey: | Y / N | Eligibility Report: | Y / N NA |
| General Notice of Relocation Rights: | Y / N | Notice of Eligibility: | Y / N |
| 90 Day Assurance provided: | Y / N | Notice of Intent to Acquire: | Y / N NA |
| Notice of Monetary Entitlements: | Y / N | Financial Information Reviewed: | Y / N |
| Lawfully Present in US Certification: | Y / N | If Necessary, W-9 Obtained: | Y / N NA |
| Final Diary: | Y / N | Appeal: | Y / N |

If yes, include summary below

MOVING EXPENSES (Y/N/Dates)

| | | | |
|------------------------------------|----------|---------------------------------------|-------|
| Written Inventory: | Y / N | Site Search Expenses : | Y / N |
| Request for Proposal (RFP): | Y / N NA | Professional Move Planning: | Y / N |
| Move Estimates (Specialist): | Y / N | Move Supervision: | Y / N |
| Move Estimates (Professional): | Y / N NA | Actual Direct Loss of Tangible (DLT): | Y / N |
| Photograph Inventory: | Y / N | Substitute Personal Property (SPP): | Y / N |
| Move Expense Agreement: | Y / N | Move Amount Paid: | \$ |
| Vacate Inspection Report w/photos: | Y / N | Obsolete Items: | Y / N |
| Vacate Date: | | Storage: | Y / N |
| Abandonment of Personal Property: | Y / N | Proof of Payment: | Y / N |

If yes, make sure no duplication of payment and did not pay for as a move cost

RELATED MOVING EXPENSES (Y/N/Dates)

| | | | |
|------------------------|-------|--------------------------|-------|
| Professional Services: | Y / N | Connection to Utilities: | Y / N |
|------------------------|-------|--------------------------|-------|

REESTABLISHMENT EXPENSES

Reestablishment Application(s): List and Describe

- | | |
|----|----|
| 1. | 3. |
| 2. | 4. |

Total Amount Paid: \$

FIXED MOVING PAYMENT (IN LIEU) (Y/N/Dates)

| | | | |
|--------------------------------|----------|-------------------|-------|
| Income Verification: | Y / N | Amount Approved: | \$ |
| Application for Fixed Payment: | Y / N NA | Proof of Payment: | Y / N |
| Fixed Payment Worksheet: | Y / N NA | | |
| Financial Documentation | | | |
| Destroyed/Returned: | Y / N | | |

ADVISORY ASSISTANCE

In your opinion was appropriate advisory services provided to the displaced person? Y/N

NOTESLPA-014
Rev 3/13**LPA-014 Non-Residential Relocation Review Worksheet**

PERSONAL PROPERTY ONLY (PPO) RELOCATION REVIEW WORKSHEET**PROJECT - DISPLACEE INFORMATION**

| | | |
|------------------------------|--------------------------|-------|
| Project Title: | Spot Check: | Y / N |
| Parcel No: | Final Review: | Y / N |
| Name of Displaced Person(s): | Displacee No: | |
| Relocation Plan: Y / N | Date Relo Plan Approved: | |
| Date of Review: | Name of Reviewer: | |

REQUIRED NOTICES AND GENERAL FILE (Y/N/Dates)

| | | | |
|---------------------------------------|-------|----------------------------------|-------|
| Occupancy Survey: | Y / N | Eligibility Report: | Y / N |
| General Notice of Relocation Rights: | Y / N | Notice of Eligibility: | Y / N |
| 90 Day Assurance provided: | Y / N | Notice of Monetary Entitlements: | Y / N |
| Lawfully Present in US Certification: | Y / N | If necessary, W-9 Obtained: | Y / N |
| Final Diary: | Y / N | Appeal: | Y / N |
| | | If yes, include summary below | |

MOVING EXPENSES (Y/N/Dates)

| | | | |
|------------------------------|-------|--------------------------------|-------|
| Written Inventory: | Y / N | Photograph Inventory: | Y / N |
| Request for Proposal (RFP): | Y / N | Move Estimates (Professional): | Y / N |
| Move Estimates (Specialist): | Y / N | | |
| Move Expense Agreement: | Y / N | | |

TYPE OF MOVE SELECTED (Y/N/Dates)

| | | | |
|--|-------|-----------------------------|-------|
| Commercial Move: | Y / N | Personal Property Abandoned | Y / N |
| Self Move: | Y / N | Vacate Inspection Report: | Y / N |
| Actual Cost Move: | Y / N | Vacate Photos: | Y / N |
| Proof of Payment: | Y / N | Vacate Date: | |
| Amount Paid: \$ | | | |
| Abandonment of Personal Property: | Y/N | | |
| If yes, make sure no duplication of payment and did not pay for as a move cost | | | |

ADVISORY ASSISTANCE

In your opinion was appropriate advisory services provided to the displaced person? Y / N:

NOTES

LPA-015
Rev 3/13

LPA-015 Personal Property Only (PPO) Review Worksheet

Date

Name

Address

City, State Zip

SUBJECT: Project title:
Federal Aid No.:
Right of Way Certification Review

Dear :

At your request, the WSDOT recently conducted a review of the right of way acquisition files for the above-referenced project to check for compliance with your agency's approved right of way procedures, the WSDOT LAG Manual, Chapter 25, and applicable sections of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended ("Uniform Act").

An appropriate sample of the individual parcel files was selected for review.

(REVIEW OPTION 1)

Our review found the agency fully in compliance with no corrective measures required.

(REVIEW OPTION 2)

As you are already aware, our review revealed item(s) requiring additional corrective action before the agency's certification could be accepted. We determined that these item(s) could be and were addressed after closing. Please use the items as noted in the attached Parcel Oversight Report as reference points in the event of future federally-funded transportation projects, as reoccurrence of similar items may jeopardize that project's eligibility for federal funds.

(REVIEW OPTION 3 – THIS OPTION IS ONLY TO BE USED WITH PRIOR APPROVAL OF THE LOCAL AGENCY PROGRAM MANAGER)

As you are already aware, the review revealed item(s) noted on the attached Parcel Oversight Report that required additional corrective action before the agency's certification could be accepted. While the right of way on this project was not originally acquired in accordance with current FHWA directives per Title 23 CFR Part 635, Section 309 Para (c), the agency completed the required corrective action and submitted a Qualified Right-of-Way Certificate # ____.

Please use the items as noted in the attached Parcel Oversight Report as reference points in the event of future federally-funded transportation projects, as reoccurrence of similar items may jeopardize that project's eligibility for federal funds.

(PROCESS OPTION A – Cert)

Your request for a (Qualified) Right of Way Certificate # ____ requires an initial level of review and acceptance, and a final level of review and approval.

1. Review and acceptance by _____ Region Real Estate Services: Completed.
Your request has been forwarded to _____ Region Local Programs for inclusion in the project funding package transmittal to Highways and Local Programs at WSDOT Headquarters. A copy of your request, together with the Local Agency Coordinator review forms, has also been forwarded to WSDOT's Local Agency Program Manager.

LPA-017 Certification Review Transmittal Letter (Cert 1 or 2)

Date
Page 2

2. Review and final approval by WSDOT's Local Agency Program Manager: Pending.
At such time as the Program Manager has reviewed and made a positive determination as to your Agency's request, and has received confirmation of final processing of the funding package by Highways and Local Programs, a (Qualified) Right of Way Certificate # _____ can be issued by the Program Manager to the Federal Highway Administration. A copy of the Right of Way Certificate issued will be provided to your Agency.

You will be contacted by your Local Programs representative regarding the obligation of funding for this project.

(PROCESS OPTION B – No Cert)

The issuance of a (Qualified) Right of Way Certificate by the WSDOT is not possible at this time, because (state applicable reasons such as federal funds have not been identified for any phase of your agency's project, or no PS&E is available for inspection, or no funds for the construction phase have been identified for your agency's project, or the right of way for your agency's project is not clear, or other).

Enclosed are all original review documents that this Local Agency Coordinator prepared in reviewing your agency's project. Please note that your agency is responsible for retaining these original documents, as the WSDOT's document retention period is limited. You are also advised to secure the original parcel acquisition and relocation files in a manner such that they may be readily available should the need arise for further inspection.

At such time as conditions exist that make your agency's project eligible for certification, your agency may resubmit its request for certification, accompanied by the original review documents.

The WSDOT strongly encourages local agencies to contact their Local Agency Coordinator as early as possible on federally-funded projects where the acquisition of property rights is anticipated. The LAG manual, the Uniform Act and related material governing the acquisition of real property rights are complex and we welcome any request for assistance in interpreting them.

Sincerely,

NAME

_____ Region Local Agency Coordinator

Phone

Email Contact

Enclosure

cc: (Name of Region Local Programs Engineer)
(Name of Region Real Estate Manager)
Dianna Nausley, Local Agency Program Manager

LPA-017
Rev 3/13

Date

Name

Address

City, State Zip

SUBJECT: Project title:
Federal Aid No.:
Right of Way Certification Review

Dear :

At your request, the WSDOT recently conducted a review of the right of way acquisition files for the above-referenced project to check for compliance with your agency's approved right of way procedures, the WSDOT LAG Manual, Chapter 25, and applicable sections of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended ("Uniform Act").

An appropriate sample of the individual parcel files was selected for review.

(REVIEW OPTION 1)

Our review found the agency fully in compliance with no corrective measures required.

(REVIEW OPTION 2)

As you are already aware, our review revealed item(s) requiring additional corrective action before the agency's certification could be accepted. We determined that these item(s) could be and were addressed after closing. Please use the items as noted in the attached Parcel Oversight Report as reference points in the event of future federally-funded transportation projects.

(REVIEW OPTION 3) THIS OPTION IS ONLY TO BE USED WITH PRIOR APPROVAL OF THE LOCAL AGENCY PROGRAM MANAGER.

As you are already aware, the review revealed item(s) noted on the attached Parcel Oversight Report that required additional corrective action before the agency's certification could be accepted. While the right of way on this project was not originally acquired in accordance with current FHWA directives per Title 23 CFR Part 635, Section 309 Para (c), the agency completed the required corrective action and submitted a Qualified Right-of-Way Certificate #3.

Please use the items as noted in the attached Parcel Oversight Report as reference points in the event of future federally-funded transportation projects, as reoccurrence of similar items may jeopardize that project's eligibility for federal funds.

(PROCESS OPTION A – Cert).

Your request for a (Qualified) Right of Way Certificate #3 requires two levels of review and acceptance, and one level of review and final approval.

1. Review and acceptance by _____ Region Real Estate Services: Completed.
Your request has been forwarded to _____ Region Local Programs for inclusion in the project funding package transmittal to Highways and Local Programs at WSDOT Headquarters. A copy of your request, together with the Local Agency Coordinator review forms, has also been forwarded to WSDOT's Local Agency Program Manager.

LPA-018 Certification Review Transmittal Letter (Cert 3)

Date
Page 2

2. Review and acceptance by WSDOT's Local Agency Program Manager: Pending.
At such time as the WSDOT Program Manager has reviewed and made a positive determination as to your Agency's request, the certification request will be forwarded to the Right of Way Program Manager at the Federal Highway Administration Washington Division office for review and final approval.
3. Review and approval by FHWA's Right of Way Program Manager: Pending.
At such time as the FHWA Program Manager has reviewed and made a positive determination as to your Agency's request, the FHWA Program Manager will issue a certification approval letter to the Washington State Secretary of Transportation. The letter will provide conditions for approval. Processing of the funding package by Highways and Local Program may then be completed.

You will be contacted by your Local Programs representative regarding the obligation of funding for this project.

The WSDOT strongly encourages local agencies to contact their Local Agency Coordinator as early as possible on federally-funded projects where the acquisition of property rights is anticipated. The LAG manual, the Uniform Act and related material governing the acquisition of real property rights are complex and we welcome any request for assistance in interpreting them.

Sincerely,

Name of Local Agency Coordinator
Local Agency Coordinator
WSDOT _____ Region RES
Phone number

cc: (Name of Region Local Programs Engineer)
(Name of Region Real Estate Manager)
Dianna Nausley, Local Agency Program Manager

LPA-018
Rev 3/13

Spot Check & Certification Review Sample Size Determination Worksheet

The intent of this worksheet is to help the LAC determine their sample size for a project's spot check or certification review. The LAC has the discretion to influence the sample size based on the experience level of the LPA's staff, and on their previous performance. Once sample size is calculated the LAC will need to place a copy of this spreadsheet in the project file. If the LAC chooses not to use this worksheet the LAC will need to provide their methodology on how they selected their sample size to review.

| Calculator | | | | Sample Percentage Key | | |
|----------------------|----------------------------|--|-------------------|---------------------------|-------------------------------------|--|
| Type of Review | Number of Files in Project | LPA Experience Level (from drop down list) | Sample Percentage | Number of Files to Review | Spot Check Sample Review Percentage | Certification Review Sample Review Percentage |
| Certification Review | 15 | medium level of experience, medium level of problems | 0.6 | 9 | 5% | 25% |
| Spot Check | 15 | medium level of experience, medium level of problems | 0.15 | 3 | 10% | 50% |
| | | | | | 15% | 75% |
| | | | | | 10% | 35% |
| | | | | | 15% | 60% |
| | | | | | 20% | 80% |
| | | | | | 15% | 50% |
| | | | | | 20% | 75% |
| | | | | | 25% | 100% |
| | | | | | | high level of experience, low level of problems |
| | | | | | | high level of experience, medium level of problems |
| | | | | | | high level of experience, high level of problems |
| | | | | | | medium level of experience, low level of problems |
| | | | | | | medium level of experience, medium level of problems |
| | | | | | | medium level of experience, high level of problems |
| | | | | | | low level of experience, low level of problems |
| | | | | | | low level of experience, medium level of problems |
| | | | | | | low level of experience, high level of problems |

LPA-019
Rev 3/13

LPA-019 Sample Size Determination Form

